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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT 24 1996

Federal Communications Commission
Office of Secretary

In the Matter of)

Implementation of Section 402(b)(1)(A)
of the Telecommunications Act of 1996)

CC Docket No. 96-187

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REPLY COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these reply comments in response to the comments filed pursuant to the *Notice of Proposed Rulemaking* ("*NPRM*") released in the proceeding captioned above.¹ The National Telephone Cooperative Association ("NTCA") is a national association of approximately 500 local exchange carriers (LECs) that provide telecommunications services to end users and interexchange carriers throughout rural and small-town America.

In this proceeding, the Commission is considering proposals to implement the streamlined tariff provisions in Section 402(b)(1)(A) of the Telecommunications Act of 1996 ("the Act").² Comments were filed on October 9, 1996.

The Commission solicited comment on the proper interpretation of the term "deemed lawful," and also asked for comment concerning the extent to which it should conduct pre-

¹ See *Notice of Proposed Rulemaking*, FCC 96-367, September 6, 1996.

² Pub. L. No. 104-104, 110 Stat. 56.

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effective and/or post-effective review of tariff revisions.³ In addition, the Commission asked about the provision of electronic tariff filing and other procedures consistent with a streamlined tariff approach.

With respect to the term “deemed lawful,” the Commission asked whether the streamlined tariff should be considered a “lawful” rate once in effect, thus precluding the Commission from awarding damages prior to a determination that the tariff is unlawful. Alternatively, the Commission proposed that the phrase be interpreted to mean that streamlined tariffs are “presumed lawful” for purposes of establishing the burden of proof in a tariff investigation. The National Exchange Carrier Association’s (NECA’s) comments suggest that “deemed lawful” should be interpreted to mean “presumed lawful” as described in the *NPRM*; this would benefit all involved.⁴ Consistent with this interpretation, NECA points out that the Commission must therefore rely on post-effective tariff review. The shortened filing effective periods would make the use of the pre-effective tariff review impractical. Further, a post-effective review procedure would enable the Commission to review tariffs but also allow the tariff changes to go into effect on the planned date.⁵ NTCA supports this view.

NTCA agrees that the goal of the Act was to provide regulatory relief to the carriers by reducing the procedural requirements for access tariff filings and eliminating the filing of petitions solely as a delay tactic. NTCA also agrees that no further rules for post-effective review

³ *NPRM* at paras. 23-25.

⁴ *See* comments of NECA at 2.

⁵ NECA at 3.

are necessary. "The Commission's ability to institute section 205 investigations and the complaint process available to customers amply protects ratepayers."⁶

NTCA further agrees with NECA's position that pursuant to the Act, *all* tariff filings are subject to streamlined treatment.⁷ The explicit language of the Act does not exclude new services. On the contrary, it states: "A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis."⁸ NTCA agrees that the Commission's tentative conclusion to exclude tariff filings which introduce new services in its streamlined process is not justifiable.

With respect to the Commission's proposal to require that tariffs be filed on-line, NTCA concurs that the Commission should further streamline tariff procedures via an electronic filing process. A system of electronic tariff filing is consistent with the goal of the Act, to reduce regulatory burdens and streamline the tariff process. Commenters were virtually unanimous in their support of the Commission's effort to develop or require the development of some type of electronic filing system,⁹ and most recommended that the Commission utilize its own World Wide Web (WWW) page for this purpose. NTCA strongly supports a publicly available electronic filing system which is developed and maintained by the Commission. Carriers should

⁶ NECA at 4.

⁷ NECA at 5. *See also*, Comments of USTA at 4, Bell Atlantic at 8, Pacific Telesis Group at 8, NYNEX at 12, GTE at 15, and Southwestern Bell at 6.

⁸ 47 U.S.C. 203 (a)(3).

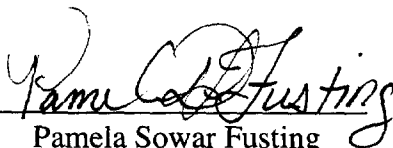
⁹ *See*, for example, comments of Cincinnati Bell at 9. *See also*, GTE at 20, MFS Communications Company at 9, USTA at 8, McLeod Telemanagement, Inc. at 7, and BellSouth at 8.


not be responsible for organizing and supervising the system. Rather, the Commission should ensure system security and a uniform standard for filings.¹⁰

While NTCA agrees with commenters that an electronic tariff filing procedure can aid the streamlining process, NTCA is concerned that there has been no explicit reference to the maintenance of a permanent record. NTCA believes that a properly designed electronic filing can effectively replace the "paper-oriented" tariff filing system now in place. However, the Commission must then also establish some procedure for the storage of electronically filed, historical tariff filings. If the Commission organizes a system for tariff filings that stores only *currently effective* tariffs, the Commission must ensure that a publicly accessible permanent record of tariff filings is maintained elsewhere.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE
ASSOCIATION

By: 
Pamela Sower Fusting
Telecommunications Policy Analyst
(202) 298-2367

By: 
David Cosson
(202) 298-2326

Its Attorney

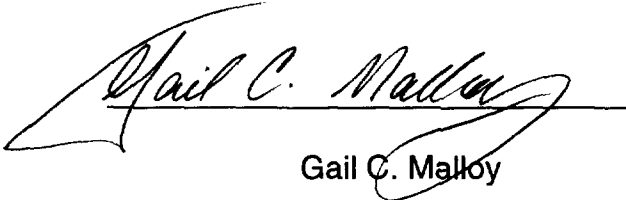
2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

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¹⁰ The Commission noted the importance of system security in its *NPRM*: "System security, including the integrity of the electronic tariffs, is absolutely critical . . ." *NPRM* at para. 22. Commenters agree. See, for example, Cincinnati Bell at 10.

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in CC Docket No. 96-187 was served on this 24th day of October 1996, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list:

A handwritten signature in cursive script, reading "Gail C. Malloy", is written over a horizontal line. The signature is fluid and stylized, with the first letter of "Gail" being particularly large and looping.

Gail C. Malloy

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814-0101
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802-0106
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844-0105
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832-0104
Washington, D.C. 20554

Mr. Kent Nilsson, Chief
Network Service Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W., Room 253
Washington, D.C. 20554

International Transcription Service
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Jerry McKoy
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, D.C. 20554

Ms. Dorothy Conway
Federal Communications Commission
1919 M Street, N.W.
Room 234
Washington, D.C. 20503

Mr. Timothy Fain
Office of Management and Budget
New Executive Office Building
Room 10236
725 17th Street, N.W.
Washington, D.C. 20503